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COUNTY COUNCIL
OF

HARFORD COUNTY, MARYLAND

BILL NO. 31-82

Introduced by Council President Hardwicke at the request of the County Executive

Legislative Day No. 81-29 Date October 13, 1981

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31 32 AN EMERGENCY ACT AUTHORIZING AND EMPOWERING HARFORD COUNTY, MARYLAND TO ISSUE AND SELL, AS LIMITED OBLIGATIONS OF THE COUNTY AND NOT UPON ITS FULL FAITH AND CREDIT, ITS INDUSTRIAL DEVELOPMENT REVENUE BONDS, IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$900,000.00, PURSUANT TO SECTIONS 266A TO 266I, INCLUSIVE, OF ARTICLE 41 OF THE ANNOTATED CODE OF MARYLAND, FOR THE PURPOSE OF FINANCING THE ACQUISITION OF A CERTAIN INDUSTRIAL BUILDING, INCLUDING THE PURCHASE AND INSTALLATION OF EQUIPMENT THEREIN, TO BE LOCATED IN THE HARFORD MALL BY FOODARAMA GROUP, INC., A MARYLAND CORPORATION, AND USED AS A RETAIL FOOD AND SUPERMARKET STORE: AUTHORIZING THE ISSUANCE OF NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH REVENUE BONDS; GENERALLY PROVIDING FOR AND DETERMINING VARIOUS MATTERS, DETAILS AND PROCEDURES IN CONNECTION THEREWITH; AND FURTHER DECLARING THIS ORDINANCE TO BE AN EMERGENCY MEASURE.

By the Council, October 13, 1981

Introduced, read first time, ordered posted and public hearing scheduled

on: November 10, 1981

at: 6:00 P.M.

By Order: ageli Markowski, Secretary

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on November 10, 1981.

angela Mashowski, Secretary

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RECITALS

Sections 266A to 266I, inclusive, of Article 41 of the Annotated Code of Maryland (1978 Replacement Volume and 1980 Cumulative Supplement), as amended (the "Act"), empower all the counties and municipalities of the State of Maryland to borrow money by issuing revenue bonds for the purpose of financing the costs of acquiring any industrial building or buildings (as defined in the Act). The Act declares it to be the legislative purpose to relieve conditions of unemployment in the State of Maryland, to encourage the increase of industry and a balanced economy in the State of Maryland, to assist in the retention of existing industry in the State of Maryland through the control, reduction or abatement of pollution of the environment (where proceeds of the bonds are used for that purpose), to promote economic development, to protect natural resources and in this manner to promote the health, welfare and safety of the residents of each of the counties and municipalities of the State of Maryland.

Harford County, Maryland, a body politic and corporate and a political subdivision of the State of Maryland (the "County"), received a letter of intent dated August 28, 1981 (the "Letter of Intent") from Foodarama Group, Inc., a Maryland corporation (the "Industrial Concern"), an "industrial concern" as described in the Act, pursuant to which the Industrial Concern has requested the County to participate in the financing of the acquisition (within the meaning of the Act) of an industrial building (within the meaning of the Act) to be located in Harford County, Maryland (the "Industrial Building") by the issuance and sale by the County of its industrial development revenue bonds in the aggregate principal amount

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not to exceed \$900,000.00, pursuant to and in accordance with the Act.

The County Council of Harford County adopted Resolution No. 43-81 on September 15, 1981 (the "Preliminary Resolution") and therein stated and declared the present intention of the County to participate in the financing of the Industrial Building by issuing and delivering its industrial development revenue bonds in the aggregate principal amount not exceeding \$900,000.00 and by loaning the proceeds thereof to the Industrial Concern to finance a portion of the cost of the acquisition of the Industrial Building as generally described in the Letter of Intent. The Preliminary Resolution stated that the County had been advised by the Industrial Concern that the Industrial Concern had decided to acquire a leasehold interest in a Harford Mall store as the Industrial Building and that the County approved and consented to such land and improvements as the location of the Industrial Building.

The Industrial Building, which is an "industrial building" as defined in Section 266A of the Act, will consist of (a) the acquisition of a leasehold interest in land and improvements, consisting of a former Pantry Pride store containing approximately 34,200 square feet of store space, located at 602 Boulton Street, Harford Mall, Bel Air, Harford County, Maryland; (b) the renovation and improvement of the land and improvements for the operation of a food and supermarket store; (c) the acquisition and installation of certain machinery and equipment, and of any and all other improvements, necessary or useful in connection with the operation of the Industrial Concern on and in such property, and (d) the acquisition of such other interests in land as may be necessary or suitable for the foregoing,

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including roads and rights of access, utilities and other necessary site preparation facilities.

Based upon the findings and determinations set forth herein and in the Preliminary Resolution, the County has decided to participate in the financing of the Industrial Building by the issuance, sale and delivery, at any time or from time to time and in one or more series, of its industrial development revenue bonds, in the aggregate principal amount not to exceed \$900,000.00 (the "Bonds"), and by loaning the proceeds of the Bonds of any such series to the Industrial Concern upon the terms and conditions of one or more loan agreements or other similar financing agreements to be entered into between the County and the Industrial Concern (a "Loan Agreement"), as permitted by the Act, such proceeds to be used by the Industrial Concern solely to finance the acquisition of the Industrial Building as described above.

Any Loan Agreement entered into with respect to the Bonds of such series will require (a) the Industrial Concern and the County to use the proceeds of the Bonds of such series solely to finance the acquisition of the Industrial Building as set forth above, and (b) the Industrial Concern to make payments which will be sufficient to enable the County to pay the principal of and interest and premium, if any, on the Bonds of such series when and as the same become due and payable.

NOW, THEREFORE, IN ACCORDANCE WITH THE ACT:

Section 1. BE IT ENACTED BY THE COUNTY COUNCIL

OF HARFORD COUNTY, MARYLAND, That pursuant to the Act, it
is hereby found and determined as follows:

(1) The issuance and sale of the Bonds by the County, pursuant to the Act, for the sole and exclusive

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purpose of financing the acquisition (within the meaning of the Act) of the Industrial Building will facilitate and expedite the acquisition of the Industrial Building.

- and the financing thereof as provided in this Ordinance will promote the declared legislative purposes of the Act by

 (a) fostering the creation of new jobs in Harford County, thus relieving conditions of unemployment in the State of Maryland and in Harford County; (b) encouraging the increase of industry and the creation of a balanced economy in the State of Maryland and in Harford County; (c) assisting in the retention of existing industry in the State of Maryland and in Harford County; (d) promoting economic development; and (e) promoting the health, welfare and safety of the residents of Harford County and of the State of Maryland.
- (3) In addition to authorizing the County itself to construct industrial buildings and either to lease or to sell such buildings to an Industrial Concern, the Act, as an alternative procedure, also authorizes the County to finance an industrial building by loaning the necessary sums to the Industrial Concern. This loan form of financing saves the County from indirect costs and other burdens by avoiding any direct involvement by the County in the acquisition, ownership or administration of the Industrial Building, while still permitting ample controls to be imposed on the use of the proceeds of the Bonds to insure that the public purposes of the Act are fully accomplished. It is, therefore, in the best interests of the citizens of the County to finance the acquisition of the Industrial Building by a loan to the Industrial Concern. This Ordinance thus contemplates financing in the form of a loan of the proceeds of the Bonds by the County to the Industrial Concern rather

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than a transaction in the form of a lease or sale of the Industrial Building to the Industrial Concern.

- (4) Neither the Bonds nor the interest thereon shall ever constitute an indebtedness or general obligation of the County or a charge against, or pledge of, the general credit or taxing powers of the County, within the meaning of any constitutional or charter provision or statutory limitation, nor ever constitute or give rise to any pecuniary liability of the County. The Bonds and the interest thereon shall be limited obligations of the County, repayable by the County solely from the revenue derived from loan repayments (both principal and interest) made to the County by the Industrial Concern under the applicable Loan Agreement and from any other moneys made available to the County for such purpose. Neither the proceeds of the Bonds nor the payments of the principal of and premium (if any) and interest on the Bonds shall be commingled with the County's funds nor subject to the absolute control of the County, but will be subject only to such limited supervision and direction as deemed necessary or desirable by the County to insure that the proceeds of the Bonds are used to accomplish the public purposes of the Act and this Ordinance. The transactions authorized hereby do not constitute any physical public betterment or improvement or the acquisition of property or equipment for public use. The public purposes expressed in the Act are to be achieved by facilitating the acquisition of the Industrial Building by the Industrial Concern.
- (5) The security for the Bonds of any series shall be solely and exclusively (a) the absolute, irrevocable and unconditional obligation of the Industrial Concern to make the payments required by the Loan Agreement entered into

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with respect to the Bonds of such series, (b) moneys realized from the liquidation of any lien or security interest created by such Loan Agreement and of any other lien or security interest created with respect to any property as security for the Bonds of such series or the related Loan as the County Council of the County (the "County Council") may provide for and approve by a resolution or resolutions to be adopted by the County Council prior to the issuance, sale and delivery of the Bonds of such series (an "Administrative Resolution"), and (c) moneys realized from any guaranty of the Bonds of such series or the related Loan, as the County Council may provide for and approve in an Administration Resolution.

(6) As required by Section 266G of the Act, the County does hereby pledge the income and revenue of the County from the Industrial Building for payment of the cost thereof and sets aside such income in a special fund for that purpose. However, none of such income and revenue shall be set aside as a depreciation account (as described in the Act), because such an account would (a) be inconsistent with the transactions authorized hereby, and (b) place an unreasonable burden on the Industrial Concern so as to adversely affect the feasibility of the transaction and thus frustrate the legislative purposes of the Act. The Industrial Concern shall covenant and agree to properly operate and maintain the Industrial Building during the time any of the Bonds are outstanding. If the Bonds of any series are secured by a lien on or security interest in the Industrial Building, such covenant and agreement shall include a specific undertaking by the Industrial Concern to make all repairs to the building and repair or replace all equipment necessary to insure that the security for the Bonds of such series shall not be impaired.

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(7) The Bonds of each series shall be authorized, issued, sold and delivered without direct or indirect cost to the County, and to that end, the County Executive shall provide for the payment directly by the Industrial Concern of all necessary expenses of preparing, printing and selling the Bonds of each series and other costs contemplated and permitted by the Act, including (without limitation) any and all costs, fees and expenses incurred by or on behalf of the County in connection with the authorization, issuance, sale, delivery and administration of the Bonds of each series and all costs incurred in connection with the preparation of the appropriate legal documents, including (without limitation), the fees of bond counsel to the County and compensation to any person (other than full-time employees of the County) or entity performing services for or on behalf of the County in connection with the transactions contemplated by this Ordinance, whether or not the proposed financing is consummated.

(8) As evidenced by the Letter of Intent, the Industrial Building is to be acquired by and for use by the Industrial Concern, an "industrial concern" and a "bona fide tenant or purchaser" within the meaning of the Act.

Section 2. AND BE IT FURTHER ENACTED BY THE

COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That this

Ordinance, among other things, and the Preliminary Resolution

evidence the intent of the County to issue, sell and deliver

the Bonds authorized hereby in accordance with the terms

hereof. The County and the Industrial Concern contemplate

that, upon the enactment of this Ordinance, the Industrial

Concern may commence or continue the improvement of the

Industrial Building prior to the issuance, sale and delivery

of the Bonds.

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Section 3. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the County is hereby authorized and empowered to issue, sell and deliver the Bonds at any time or from time to time and in one or more series, in the aggregate principal amount not to exceed \$900,000.00, subject to the provisions of this Ordinance. The County will lend the proceeds of the Bonds of any series to the Industrial Concern pursuant to the terms and provisions of a Loan Agreement, to be used by the Industrial Concern for the sole and exclusive purpose of financing the acquisition and improvement of the Industrial Building. The Bonds of any series and the interest thereon shall be limited obligations of the County, repayable by the County solely from the revenue derived from payments made to the County by the Industrial Concern pursuant to the Loan Agreement entered into with respect to the Bonds of such series, and from any other moneys made available to the County for such purpose. The security for the Bonds of any series shall be solely and exclusively that provided in Section 1 of this Ordinance.

Section 4. AND BE IT FURTHER ENACTED BY THE

COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the Bonds
may be issued at any time or from time to time and in one
or more series, and each series of the Bonds shall be
identified by the year of issue or other appropriate
designation. Unless otherwise provided by the County Council
in an Administrative Resolution, each of the Bonds shall
bear the descriptive title "Harford County, Maryland
Industrial Development Revenue Bond (Foodarama Group, Inc.
Project)", provided, that the descriptive title may contain
such other descriptive information as the County Council
may prescribe in an Administrative Resolution (e.g. "1981
Series B").

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Section 5. AND BE IT FURTHER ENACTED BY THE

COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the Bonds

of any series, which may be engraved, printed or typewritten,

shall:

- (a) be executed, issued and delivered in such amount or amounts, not exceeding \$900,000.00 in the aggregate, unless that amount is increased by an Ordinance supplemental hereto,
 - (b) bear interest at such rate or rates,
 - (c) be dated,

- (d) be in such denominations,
- (e) be of such form and tenor,
- (f) be payable, both as to principal and interest, in such amounts, from and at such time (not later than 30 years from the date thereof) and at such place or places, and
- (g) be subject to redemption prior to their stated maturity on such terms and conditions, all as the County Council may prescribe, determine or provide for in an Administrative Resolution.

Section 6. AND BE IT FURTHER ENACTED BY THE

COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the Bonds
shall be executed in the name of the County and on its
behalf by the County Executive of the County, by his manual
or facsimile signature, and the corporate seal of the County
or a facsimile thereof shall be impressed or otherwise
reproduced thereon and attested by the Director of
Administration of the County, by his manual signature. Any
Loan Agreement and, where applicable, all other documents
as the County Council shall deem necessary to effectuate
the issuance, sale and delivery of the Bonds of any series,
shall be executed in the name of the County by his manual

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signature, and the corporate seal of the County or a facsimile thereof shall be impressed or otherwise reproduced thereon and attested by the Director of Administration of the County by his manual signature. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds of any series or any of the aforesaid documents shall cease to be such officer before the delivery of the Bonds of such series or any of the other aforesaid documents, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. The County Executive of the County, the Director of Administration of the County and other officials of the County are hereby authorized and empowered to do all such acts and things and execute such documents and certificates as the County Council may determine in an Administrative Resolution to be necessary to carry out and comply with the provisions hereof; and, upon the enactment of this Ordinance, such officials are hereby authorized and empowered to prepare and distribute, in conjunction with representatives of the Industrial Concern and the prospective purchasers of or underwriters for the Bonds of any series, both a preliminary and a final official statement in connection with the sale of the Bonds of any such series, if such preliminary official statement and final official statement are determined to be necessary or desirable for the sale of the Bonds of such series, provided, however, that any such preliminary official statement shall be clearly marked to indicate that it is subject to completion and amendment.

Section 7. AND BE IT FURTHER ENACTED BY THE

COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That prior to

the issuance, sale and delivery of the Bonds of any series,

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 the County Council shall adopt an Administrative Resolution, pursuant to which the County Council may (without limitation):

- (a) prescribe the form, tenor, terms and conditions of and security for the Bonds of such series;
- (b) prescribe the amounts, rate or rates of interest, denominations, date, maturity or maturities (within the limits herein prescribed), the time and place or places of payment of the Bonds of such series, and the terms, conditions and details under which the Bonds of such series may be called for redemption prior to their stated maturity;
- (c) if necessary, appoint a trustee, a bond registrar and a paying agent or agents for the Bonds of such series;
- (d) approve the form and contents, and authorize the execution and delivery (where applicable) of a Loan Agreement and such other documents, including (without limitation) trust agreements, guaranties and security instruments, to which the County is a party and which may be necessary to effectuate the issuance, sale and delivery of the Bonds of such series;
- (e) determine the time of execution, issuance, sale and delivery of the Bonds of such series and prescribe any and all other details of the Bonds of such series;
- (f) provide for the direct payment by the

 Industrial Concern of all costs, fees and expenses incurred
 by or on behalf of the County in connection with the
 authorization, issuance, sale, delivery and administration
 of the Bonds of such series, including (without limitation)
 costs of printing (if any) and issuing the Bonds of such
 series, legal expenses (including the fees of bond counsel)
 and compensation to any person (other than full-time
 employees of the County) performing services by or on behalf
 of the County in connection therewith;

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(g) provide for the issuance and sale (subject to the passage at the time of an appropriate ordinance authorizing the same, if necessary) of one or more series of additional bonds and one or more series of refunding bonds; and

(h) do any and all things, and authorize the officials of the County to do any and all things necessary, proper or expedient in connection with the issuance, sale and delivery of the Bonds of such series.

Section 8. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That, as authorized by the Act, the Bonds of each series shall be sold by private (negotiated) sale upon such terms and conditions as shall be approved by the County Council in an Administrative Resolution, unless, at the request of the Industrial Concern, the County Council provides in an Administrative Resolution for the public sale of the Bonds of any series.

Section 9. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the authority to issue the Bonds is intended and shall be deemed to include the authority to issue bond anticipation notes pursuant to Section 12 of Article 31 of the Annotated Code of Maryland (1976 Replacement Volume and 1980 Cumulative Supplement), as amended (the "Bond Anticipation Note Enabling Legislation"). Reference in this Ordinance to the "Bonds" shall include such bond anticipation notes where appropriate. Prior to the issuance, sale and delivery of any series of bond anticipation notes, the County Council shall adopt a resolution or resolutions which shall prescribe the maturity or maturities, interest rate or rates and other terms of such bond anticipation notes and the price or prices

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at which said notes will be sold. Such bond anticipation notes shall be sold by private negotiation by the County with a prospective purchaser or purchasers, as authorized by the Bond Anticipation Note Enabling Legislation, unless, upon request of the Industrial Concern, such resolution or resolutions provides that such bond anticipation notes shall be sold at public sale. Any resolution or resolutions adopted pursuant to this Section of this Ordinance shall be deemed to be of an administrative nature. In accordance with the Bond Anticipation Note Enabling Legislation, the County hereby covenants to pay any bond anticipation notes issued pursuant to this Section of this Ordinance and the interest thereon from the proceeds of the Bonds in anticipation of the sale of which such notes are issued, and the County hereby further covenants to issue such Bonds when, and as soon as, the reason for deferring the issuance of the Bonds no longer exists. The timely issuance of such Bonds, however, is dependent upon matters not within the control of the County, including (without limitation) the existence of a purchaser or purchasers for such Bonds at the time the reason for deferring the issuance of the Bonds no longer exists and the effectiveness of various actions taken by the Industrial Concern, its officers, agents and employees.

Section 10. AND BE IT FURTHER ENACTED BY THE

COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the provisions
of this Ordinance are severable, and if any provision,
sentence, clause, section or part hereof is held illegal,
invalid or unconstitutional or inapplicable to any person or
circumstances, such illegality, invalidity or
unconstitutionality, or inapplicability shall not affect
or impair any of the remaining provisions, sentences, clauses,

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sections, or parts of this Ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Ordinance would have been passed if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included herein, and if the person or circumstances to which this Ordinance or any part hereof are inapplicable had been specifically exempted herefrom.

Section 11. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That this Ordinance has no financial impact on Harford County, Maryland, and, therefore, there is no requirement for a fiscal impact note.

Section 12. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the Industrial Building and the sale of the Bonds therefor shall not constitute a capital project within the meaning of the Harford County Charter or Code.

Section 13. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the Bonds must be issued and sold within six (6) months from the date on which this Ordinance becomes law; provided, however, that the County Council, upon a showing of good cause after a public hearing held before the County Council prior to or after the expiration of such six (6) month period, may, by administrative resolution, extend the period during which the Bonds may be issued and sold for an additional term not to exceed six (6) months in the aggregate from the date on which the first six (6) month period expired. The County Council, in its sole discretion, shall determine the sufficiency, or lack thereof, of the reasons presented for any requested extension of the six (6) month period. If an

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extension is granted, notice of such extension and the reasons therefor must be sent to the County Executive. If the Bonds are not issued and sold within said six (6) month period or any approved extension thereof, the authority provided in this Ordinance for the County to issue and sell the Bonds shall expire.

Section 14. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That this Ordinance is declared to be an emergency measure affecting the public health, safety and welfare as found and determined in the preamble and in Section 1 of this Ordinance, and shall take effect on the date it becomes law.

EFFECTIVE: November 13, 1981

The Secretary of the Council does hereby certify that fifteen (15) copies of this Bill are immediately available for distribution to the public and the press.

Ingla Markowski, secretary

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BY THE COUNCIL

Read	the	third	time,	BILL	NO.	81-82
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By order

Angela Markowski, Secretary

Sealed with the County Seal and presented to the County Executive for his approval this 12th day of November , 1981 at 3:00 o'clock P.M.



Angela Markowski, Secretary

BY THE EXECUTIVE

APPROVED:

County Executive

Pate 11/13/81

BY THE COUNCIL

This Bill (No. 81-82), having been approved by the Executive and returned to the Council, becomes law on November 13, 1981.

Angela Markowski, Secretary

Bac'd & Recorded 3 - 1619 = 2 at 1:00 P. M. Liber 1 Folio 263 & examined per H. Douglas Chilcoat, Clerk, Harford Co.